

April 27, 2026 Truckee Civil Law & Motion Tentative Rulings

1. CL0003594 Bank of America N.A. vs. Kenneth Lepley

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendant despite the fact this case has been pending for almost five (5) months. Absent good cause being shown, the Court intends, on its own motion, to set the matter for dismissal pursuant to CCP section 583.420 and vacate the trial date set for August 21, 2026 at 11:00 a.m.

2. CL0003631 JPMorgan Chase Bank N.A. vs. Kristina L Miranda

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendant despite the fact this case has been pending for almost four (4) months. Absent good cause being shown, the Court intends, on its own motion, to set the matter for dismissal pursuant to CCP section 583.420 and vacate the trial date set for August 21, 2026 at 11:00 a.m.

3. CL0003636 JPMorgan Chase Bank N.A. vs. Paul G Casasco

No appearance required. Based on the filing of a proof of service filed on April 9, 2026 indicating the sole named defendant was personally served on April 6, 2026 and on the Court's own motion, the OSC is VACATED.

4. CU0001187 Yan Kalika vs. Sugar Bowl Corporation, a California corporation

Defendant Sugar Bowl Corporation's Motion for Summary Adjudication against Cross-Defendant Vaysman is DENIED.

Standard of Review

Code of Civil Procedure 437c(f)(1) provides, "A party may move for summary adjudication as to one or more causes of action within an action." Such "[a] motion for summary adjudication shall be granted only if it completely disposes of a cause of action...." Code Civ. Proc. §437c(f)(1). The function of a motion for summary judgment or adjudication is to allow a determination as to whether an opposing party cannot show evidentiary support for a pleading or claim and to enable an order of summary dismissal without the need for trial. *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843). In analyzing such motions, courts must apply a three-step analysis: "(1) identify the issues framed by the pleadings; (2) determine whether the moving party has negated the opponent's claims; and (3) determine whether the opposition has demonstrated the existence of a triable, material factual issue." *Hinesley v. Oakshade Town Center* (2005) 135 Cal.App.4th 289, 294. Thus, summary judgment or summary adjudication is granted when, after the court's consideration of the evidence set forth in the papers and all reasonable inferences accordingly, no triable issues of fact exist and the moving party is entitled to judgment as a matter of law. Code Civ. Proc. § 437c(c); *Villa v. McFarren* (1995) 35 Cal.App.4th 733, 741.

A defendant moving for summary judgment has the initial burden of showing that a cause of action lacks merit because one or more elements of the cause of action cannot be established or there is an affirmative defense to that cause of action. Code Civ. Proc. § 437c, subd. (o)(1), (2); *Aguilar*, 25 Cal. 4th at 850. As to each claim as framed by the complaint, the party moving for summary judgment or summary adjudication must satisfy the initial burden of proof by presenting facts to negate an essential element. *Scalf v. D. B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1520. Once the moving party has met the burden, the burden shifts to the opposing party to show, via specific facts, that a triable issue of material facts exists as to a cause of action or a defense thereto. Code Civ. Proc. § 437c(o)(2). When a party cannot establish an essential element or defense, a court must grant a motion for summary adjudication. Code Civ. Proc. § 437c(o)(1)-(2).

In determining whether any triable issues of material fact exist, the court must strictly construe the moving papers and liberally construe the declarations of the party opposing summary judgment. Any doubts as to whether a triable issue of material fact exists are to be resolved in favor of the party opposing summary judgment. *Barber v. Marina Sailing, Inc.* (1995) 36 Cal.App.4th 558, 562; see also *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 900 (“Summary adjudication is a drastic remedy and any doubts about the propriety of summary adjudication must be resolved in favor of the party opposing the motion.”).

Background

The Complaint in this matter alleges, on January 29, 2022, Plaintiff Yan Kalika (“Kalika”) was skiing at Defendant Sugar Bowl Corporation’s (“Sugar Bowl”) Resort along with his son and some friends. As Plaintiff was getting off the Jerome Hill Express chairlift, he noticed riders of the previous chairlift had fallen and were blocking the lift’s off ramp. To avoid crashing into the fallen individuals, Plaintiff contends he was forced to go around them to his right, and, in doing so, “a rope lassoed Plaintiff”, pulling his head back and causing him to fall and sustain injuries.

The Complaint contains two causes of action: general negligence and premises liability. The Complaint does not specifically allege gross negligence; however, it does allege “recklessness”. Gross negligence need not be specifically plead, as the issue of gross negligence becomes relevant only after a defendant raises the assumption of risk doctrine as a defense. See, 4 Witkin, Cal. Procedure (4th ed. 1997) Pleading, section 381, pp. 481-483; see also, *City of Santa Barbara v. Superior Court* (2007) 41 Cal.4th 747, 758. Defendant did so raise this defense in its Answer and Motion for Summary Judgment.

On January 15, 2025, Sugar Bowl moved for summary judgment on two alternative bases: (1) the release of liability signed by Plaintiff’s girlfriend released Defendant from liability for the injuries sustained by Plaintiff; and (2) the Primary Assumption of Risk Doctrine bars Plaintiff’s recovery.

In denying Sugar Bowl’s prior motion for summary judgment as to Plaintiff’s claims, the Court held:

In relation to the instant matter, the Court finds a triable issue of material fact precluding summary judgement exists on the issue of whether or not Defendant acted with gross

negligence in failing to stop the lift until the chairlift offramp area was clear enough such that the skiers on the subsequent chair (Plaintiff's chair) could depart the chair without being forced into a roped off area due to fallen skiers blocking his exit path.

May 23, 2025 Order Denying Sugar Bowl Corporation's Motion for Summary Judgment ("Ruling"), Pg. 9, ll. 1-6.

The Court further found "no material issue of fact exists as to whether the release of liability applies in this case....Thus, the release operates as a complete bar to recovery by Plaintiff under the claims of ordinary negligence alleged in the Complaint." See, Ruling, Pg. 5, ll. 19-20 and Pg. 8, ll. 4-6.

Despite these findings, on May 16, 2025, Sugar Bowl filed its Cross-Complaint against Karina Vaysman for four causes of action: breach of contract; express indemnity; declaratory relief; and fraud.

Cross-Complainant Sugar Bowl now moves for summary adjudication on two issues: (1) that Cross-Defendant Vaysman has a duty to defend Sugar Bowl against the claims of Plaintiff Kalika; and (2) that Cross-Defendant Vaysman has a legal duty to reimburse Sugar Bowl for fees and costs incurred in defense of the claims made by Plaintiff Kalika. Sugar Bowl asserts, in relevant part, because Vaysman signed the release on behalf of Plaintiff Kalika, she acted as the agent of Kalika. Now, if Vaysman asserts she had no authority to bind Kalika to the release, she must indemnify Sugar Bowl based on the language of the relevant release. Yet, this is the very issue upon which the Court has already made findings.

Applicability of Release

In its ruling denying Sugar Bowl's prior motion for summary judgment, this Court addressed the argument neither Kalika nor Vaysman recalled "signing or otherwise agreeing to a release of liability", and specifically found "no material issue of fact exists as to whether the release of liability applies in this case." See, Ruling, pg. 5, ll. 16-20. The Court went on to assert additional findings in relation to the applicability of the Release and its binding effect on Kalika. See, Ruling, pgs. 5-6, generally.

The Court is perplexed by Sugar Bowl's present assertion Vaysman owes a duty of indemnification based on the language of the release. The Court has already found the release applies to Plaintiff and Plaintiff's claims and, in so doing, also found a failure to remember does not create an issue of material fact if other evidence is sufficient to prove that fact. In short, the Court believes the issues presented in Sugar Bowls Motion for Summary adjudication are moot based on its prior ruling the release is binding on Plaintiff.

Moreover, to the extent Sugar Bowl is asserting the Release requires a participant/indemnitor indemnify Sugar Bowl in an action wherein the participant has asserted gross negligence which falls outside of the confines of the release, such a clause/interpretation is inconsistent with the language of the release and public policy.

Given the disposition herein, the Court need not address the various objections to evidence and statements of undisputed facts interposed by the parties.

5. CU0001445 James B. House vs. Gregory Atchley et al

Cross-Defendant Cory Birnberg's Motion to Strike Defendants/Cross-Complainants Complaint (Anti-SLAPP) is GRANTED. Cross-Defendant's request for attorney's fees and costs in connection with his Anti-SLAPP motion to strike is DENIED. Based on this ruling, Birnberg's subsequently filed Motion to Quash service of the Cross-complaint is MOOT.

Request for Judicial Notice

Moving party's request for judicial notice is GRANTED. Evid. Code § 452(d) (court records). However, judicial notice is limited to the fact that the documents were filed, but not of the truth of their contents. *Williams v. Wraxall* (1995) 33 Cal.App.4th 120, 130, fn. 7 (judicial notice of the truth of matters stated in court records ordinarily limited to orders, statements of decision, and judgments).

Objection to Declaration of Joel Selik

The Court OVERRULES the general objection which is one to the entire Declaration of Joel Selik. The assertion AI was used to create the declaration is non-specific and the Court cannot tell how/where Birnberg is asserting AI was used. In addition, although the Court is overruling the objection, such should in no way be viewed as the Court's finding Mr. Selik's opinions as to ultimate legal conclusions appropriate or persuasive. While the Court may utilize an expert's factual opinion to inform its decision should the issue surround esoteric activities and the declaration provide useful insight into standards in the industry, "it may not receive expert evidence on the ultimate legal issues of inherent risk and duty." *Willhide-Michiulis, et al. v. Mannot Mountain Ski Area* (2018) 25 Cal.App.5th 344, 354-355 (citation omitted). Here, Mr. Selik's declaration makes many legal conclusions to which the Court gives no weight.

MOTION TO QUASH SERVICE

Cross-Defendant Birnberg has filed a Motion to Strike a Complaint filed against him by Defendants/Cross-Complainants Atchley and Wood Structures, Inc. However, Birnberg has also filed a Motion to Strike the very same Cross-Complaint. It appears to the Court, if service were quashed, the issue of striking would not be ripe. On the basis of judicial economy and in light of the fact the Court finds good cause to strike the cross-complaint without leave to amend, the Court finds the Motion to Quash is now MOOT. To be clear, if the Court were disinclined to grant the Motion to Strike, the Court would then be in a position to substantively consider and rule on the Motion to Quash. The Court also notes, the Motion to Strike was filed almost two (2) weeks prior to the Motion to Quash.

MOTION TO STRIKE (ANTI-SLAPP)

Legal Standard

Code of Civil Procedure section 425.16 provides, in relevant parts:

(a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

(b)(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the Court determines that the Plaintiff has established that there is a probability that the Plaintiff will prevail on the claim.

(2) In making its determination, the Court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the Court determines that the Plaintiff has established a probability that he or she will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(e) As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law [Emphasis added.]

Code Civ. Proc. § 425.16.

"Resolution of an anti-SLAPP motion involves two steps. First, the Defendant must establish that the challenged claim arises from activity protected by [Code of Civil Procedure] section 425.16. [Citation.] If the Defendant makes the required showing, the burden shifts to the Plaintiff to demonstrate the merit of the claim by establishing a probability of success. We have described this second step as a 'summary-judgment-like procedure.' [Citation, fn.] The Court does not weigh evidence or resolve conflicting factual claims. Its inquiry is limited to whether the Plaintiff has stated a legally sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment. It accepts the Plaintiff's evidence as true, and evaluates the Defendant's showing only to determine if it

defeats the Plaintiff's claim as a matter of law. [Citation.] '[C]laims with the requisite minimal merit may proceed.' [Citation.]"
Baral v. Schnitt (2016) 1 Cal.5th 376, 384–385.

Analysis

First Prong: Arising From Protected Activity

“A claim arises from protected activity when that activity underlies or forms the basis for the claim. [Citations.] Critically, ‘the Defendant’s act underlying the Plaintiff’s cause of action must *itself* have been an act in furtherance of the right of petition or free speech.’ [Citations.] ‘[T]he mere fact that an action was filed after protected activity took place does not mean the action arose from that activity for the purposes of the anti-SLAPP statute.’ [Citations.] Instead, the focus is on determining what ‘the Defendant’s activity [is] that gives rise to his or her asserted liability—and whether that activity constitutes protected speech or petitioning.’ [Citation.] ‘The only means specified in section 425.16 by which a moving Defendant can satisfy the [“arising from”] requirement is to demonstrate that *the Defendant’s conduct by which Plaintiff claims to have been injured* falls within one of the four categories described in subdivision (e)....’ [Citation.] In short, in ruling on an anti-SLAPP motion, Courts should consider the elements of the challenged claim and what actions by the Defendant supply those elements and consequently form the basis for liability.”

Park v. Board of Trustees of California State University (2017) 2 Cal.5th 1057, 1062–1063.

Litigation privilege

Under Civil Code section 47(b), a publication or broadcast made in a judicial proceeding is privileged.

The litigation privilege, codified in Civil Code section 47, applies to any publication required or permitted by law in the course of a judicial proceeding to achieve the objects of the litigation, even though the publication is made outside the Courtroom and no function of the Court, or its officers is involved. *Albertson v. Raboff* (1956) 46 Cal.2d 375, 381. The usual formulation is that the privilege applies to any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action. *Silberg v. Anderson* (1990) 50 Cal.3d 205, 213-214.

The principal purpose of the litigation privilege is to afford litigants and witnesses the utmost freedom of access to the Courts without fear of being harassed subsequently by derivative tort actions. *Silberg, supra*, 50 Cal.3d at 213. To achieve this purpose, Courts have given the litigation privilege a broad interpretation. *Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1241. Other purposes underlying the litigation privilege include the promotion of the effectiveness of judicial proceedings by encouraging open channels of communication and the presentation of evidence in judicial proceedings; assurance of the utmost freedom of communication between citizens and public authorities whose responsibility is to

investigate and remedy wrongdoing; promotion of the effectiveness of judicial proceedings by encouraging attorneys to zealously protect their clients' interests; and enhancement of the finality of judgments by avoiding "an unending roundelay of litigation." *Silberg, supra*, 50 Cal.3d at 213-214. The privilege is a matter of substantive law and, when applicable, is absolute, because it applies regardless of the communicator's motives, morals, ethics, or intent. *Id.* at 216, 220.

The litigation privilege has been held applicable to all torts except malicious prosecution; malicious prosecution actions are permitted because the policy of encouraging free access to the Courts is outweighed by the policy of affording redress for individual wrongs when the requirements of favorable termination, lack of probable cause, and malice are satisfied. *Silberg, supra*, 50 Cal.3d at 215-216, citing *Albertson, supra*, 46 Cal.2d at 382. The privilege has been held to immunize defendants from tort liability based on theories of abuse of process, intentional infliction of emotional distress, intentional inducement of breach of contract, intentional interference with prospective economic advantage, negligent misrepresentation, invasion of privacy, negligence, and fraud (*Silberg, supra*, 50 Cal.3d at 215), as well as suits to enjoin tortious conduct, and suits alleging interference with contract and related claims, including unfair competition. *Rubin v. Green* (1993) 4 Cal.4th 1187, 1201-1203 (a plaintiff may not plead around the privilege barrier by relabeling the nature of the action).

Here, Cross-Complainants' complaint is based entirely upon the filing of litigation in the present case and Case No. CU0000595. There are no allegations in the Cross-complaint pertaining to any activity outside of the litigation. The litigation privilege unquestionably applies, thus satisfying the first prong.

Second Prong: Likelihood of Prevailing

If the Court determines that relief is sought based on allegations arising from activity protected by the statute, the second step is reached. There, the burden shifts to the Plaintiff to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated. The Court, without resolving evidentiary conflicts, must determine whether the Plaintiff's showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment.

If not, the claim is stricken. Allegations of protected activity supporting the stricken claim are eliminated from the complaint, unless they also support a distinct claim on which the Plaintiff has shown a probability of prevailing.

Baral v. Schnitt, supra, 1 Cal.5th at 396.

The litigation privilege is relevant to the second step in the anti-SLAPP analysis in that it may present a substantive defense which a complainant must overcome to demonstrate a probability of prevailing. *JSJ Limited Partnership v. Mehrban* (2012) 205 Cal.App.4th 1512, 1522. A complainant cannot establish a probability of prevailing if the litigation privilege precludes liability on the claim. *Flatley v. Mauro* (2006) 39 Cal.4th 299, 323.

“To demonstrate a probability of prevailing on the merits, the Plaintiff must show that the complaint is legally sufficient and must present a prima facie showing of facts that, if believed by the trier of fact, would support a judgment in the Plaintiff's favor. [Citations.] The Plaintiff's

showing of facts must consist of evidence that would be admissible at trial. . . . [Citations.]” *JSJ Limited Partnership, supra*, 205 Cal.App.4th at 1521.

At this second stage, “a Plaintiff seeking to demonstrate the merit of the claim ‘may not rely solely on its complaint, even if verified; instead, its proof must be made upon competent admissible evidence.’ ” *Sweetwater Union High School Dist. v. Gilbane Building Co.* (2019) 6 Cal.5th 931, 940.

In their Opposition, Cross-complainants argue an attorney client relationship was created between them and Birnberg. However, the evidence is such, from day one, it was clear Birnberg was acting solely as James B. House’s attorney, and Cross-complainants were solely in communication with Birnberg because of Birnberg’s representation of House.

Advising Gregory Atchley (“Atchley”) and Wood Structures, Inc. (“WSI”) the results of his research as to whether the law required them to be licensed in California prior to performing work on Mr. House’s project is research done by Birnberg and assertions made in an effort to protect his client, Mr. House. Birnberg’s indication he performed research resulting in an opinion about licensure which could negatively affect not only Mr. House and Mr. House’s litigation against Smith followed by the comment to Atchley and WSI, “I don’t want you to put yourself at risk” is not legal advice nor does it create an attorney-client relationship.

Here, neither Atchley nor WSI retained Birnberg, paid Birnberg, or requested Birnberg perform legal work on their behalf. However, House did retain Birnberg, pay Birnberg, and Birnberg’s investigation into whether having California licensed contractors including whether or not such were independent contractors was very pertinent to protecting Mr. House and Mr. House’s pending litigation against Smith.

Moreover, indicating a document is privileged does not, in and of itself, create an attorney-client relationship. “A writing that reflects an attorney’s impression, conclusions, opinions, or legal research or theories is not discoverable under any circumstances.” CCP section 2018.030.

Simply put, the evidence before the Court is such that the Court does not find any reasonable person in Atchley’s and WSI’s shoes would believe Birnberg was, at any point, acting as their attorney. Might they collaterally benefit from Birnberg’s research, opinions and advice? Perhaps. Yet, such, was solely in reference to their work for House and not because Birnberg was hired to provide them advice or work independent of his role as House’s attorney. Such, in and of itself, does not create an attorney-client relationship.

The only plausible inference based on the facts asserted by Cross-complainants is that House hired them to perform work and act in an expert witness capacity. However, the hiring of an expert witness, or, as Cross-complainants put it “participating as part of a person’s litigation team” including having discussions related to strategy, document preparation and confirming the expert has the proper qualifications to do what the attorney and his client hope they can do for a pending litigation does not, by itself, create an attorney-client relationship. Attorneys frequently ask experts to opine on the content of pleadings, discuss strategy and legal opinions with the expert for guidance, and otherwise pay experts for their expertise. Being on a party’s “litigation team” often requires working closely with that party’s attorney; however, such is not equivalent

to having an independent attorney-client relationship with that party's counsel. Hence, the existence of the work product doctrine creating a privilege for such writings and communications that may be had with the expert. Here, Cross-complainants even assert Birnberg informed Atchley he considered their communications work product. See, Cross-Complaint, pg. 5, ll. 15-18.

Perhaps, the most compelling argument of Cross-complainants is contained in Exhibit 5 to the Cross-complaint – an “opinion letter re license contractor” with “attorney-client privilege” at the top referenced above also referenced in the Declaration of Joel Selik. Although this letter is addressed to Atchley and WSI, it clearly indicates the opinion is being provided based on concerns related to protecting House and House's litigation. There are references to concerns about House not being on WSI's workers compensation policy, House being protected from a lawsuit if a worker is injured and sues, that the “permit wants Jim [House] to comply”, that “I interpret this that Jim must contract with someone who is a licensed California Contractor”, etc. In addition, this correspondence goes on to include reference to what “WSI-Greg and Danny claim” in relation to their positions, how they are charging and whether contracts are consistently labeled. The “bottom line” of this correspondence is to indicate House will need a California contractor and cannot claim WSI and its employees are employees of House. This correspondence much like the other “attorney-client privilege” communications between the parties makes clear Birnberg is, at all times, acting to protect House and does not want the communications discoverable in order to protect his client, House.

Based on the foregoing and there being no likelihood Cross-complainants would prevail in their claims even if opportunity to amend were granted, Birnberg's Motion to Strike (Anti-SLAPP) is granted with no leave to amend.

Attorney Fees and Costs

Code of Civil Procedure section 425.16 (c) (1) provides, in relevant part: “a prevailing defendant on a special motion to strike shall be entitled to recover that defendant's attorney's fees and costs.” “[The] decisional authority and the plain language of section 425.16, subdivision (c) supports the conclusion that the commonly understood definition of attorney fees ... applies with equal force to section 425.16 and a prevailing defendant is entitled to recover attorney fees *if represented by counsel.*” *Witte v. Kaufman* (2006) 141 Cal.App.4th 1201, 1208 (italics added), quoting *Ramona Unified School Dist. v. Tsiknas* (2005) 135 Cal.App.4th 510, 524.

At bar, Cross-Defendant has incurred no attorney fees in bringing the motion to strike, because all the work was done by Cross-Defendant on his own behalf. Thus, Cross-Defendant is not entitled to attorney fees. *Witte, supra*, at 1211.

6. CU0001527 Julie Swan et al vs. James Valentine

On the Court's own motion, Attorney Jeff Workman's motions to be relieved as counsel is denied without prejudice for the reasons set forth below. In addition, the Court notes a notice of unconditional settlement was recently filed on April 15, 2026 indicating this motion may now be moot. However, as the Court has not received a notice of withdrawal of motion, the Court is compelled to rule on counsel's request.

Legal Standard

The Court has discretion to allow an attorney to withdraw, and such a motion should be granted provided that there is no prejudice to the client and it does not disrupt the orderly process of justice. See *Ramirez v. Sturdevant* (1994) 21 Cal.App.4th 904, 915; *People v. Prince* (1968) 268 Cal.App.2d 398, 403-407.

A motion to be relieved as counsel must be made on Judicial Council Form MC-051 (Notice of Motion and Motion), MC-052 (Declaration), and MC-053 (Proposed Order). Cal. Rules of Court, rule 3.1362(a), (c), (e). The requisite forms must be served “on the client and on all parties that have appeared in the case.” Cal. Rules of Court, Rule 3.1362(d).

Analysis and Conclusion

Attorney Workman represents Plaintiffs Julie Swan and Allan Sword. Workman moves to be relieved as counsel, citing irreconcilable differences between Counsel and Plaintiffs. No opposition has been filed.

Workman has filed Judicial Council Forms MC-051 (Notice of Motion and Motion), MC-052 (Declaration), and MC-053 (Proposed Order). Workman seeks to be relieved as counsel for Plaintiffs on the grounds that there has been a breakdown in the attorney-client relationship. The Court finds this to be proper grounds for withdrawal. See *Estate of Falco* (1987) 188 Cal.App.3d 1004, 1014 (a breakdown in the attorney-client relationship is grounds for allowing the attorney to withdraw).

The Court notes within the past 30 days, Plaintiff's address was confirmed to be current by counsel through: (1) mail, return receipt requested; (2) Plaintiffs have provided the address in discovery responses as a current address in another matter Counsel's firm represents Plaintiffs; and (3) Plaintiff has been served electronically. The trial date is set for November 18, 2026, and the next Court appearance is the Mandatory Settlement Conference set for August 17, 2026, which should be sufficient time for Plaintiffs to retain new counsel.

However, counsel has not served all parties in this action, namely Defendants, as required by California Rules of Court, Rule 3.1362(d). Accordingly, the motion is denied without prejudice. Moving party shall give notice and provide a proof of service of such.

7. CU0001584 Matthew Coulter vs. Mark Olsen et al

Plaintiff Matthew Coulter's unopposed motion for leave to file a third amended complaint is granted. Plaintiff is to file his Third Amended Complaint within ten (10) days of the hearing date on the motion, April 27, 2026.

Legal Standard

The Court may, in its discretion and after notice to the adverse party, allow, upon any terms as may be just, an amendment to any pleading, including adding or striking out the name of any

party, or correcting a mistake in the name of a party, or a mistake in any other respect. Code Civ. Proc. § 473(a)(1).

“Public policy dictates that leave to amend be liberally granted.” *Centex Homes v. St. Paul Fire & Marine Ins. Co.* (2015) 237 Cal.App.4th 23, 32. “Although courts are bound to apply a policy of great liberality in permitting amendments to the complaint at any stage of the proceedings, up to and including trial ... this policy should be applied only ‘where no prejudice is shown to the adverse party. A different result is indicated ‘where inexcusable delay and probable prejudice to the opposing party’ is shown.” *Magpali v. Farmers Group, Inc.* (1996) 48 Cal.App.4th 471, 487 (internal citations and quotation marks omitted).

A motion to amend a pleading must include (1) a copy of the proposed amendment or amended pleading which must be serially numbered to differentiate it from previous pleadings or amendments and (2) a statement of what allegations in the previous pleading are proposed to be deleted or added. Cal. Rules of Court, Rule 3.1324(a). These changes should identify by page, paragraph, and line number where the allegations added/removed are located.

The motion shall also be accompanied by a declaration attesting to (1) the effect of the amendment, (2) why the amendment is necessary and proper, (3) when the facts giving rise to the amended allegations were discovered, and (4) why the request for amendment was not made earlier. Cal. Rules of Court, Rule 3.1324(b).

In ruling on a motion for leave to amend a pleading, the court does not consider the merits of the proposed amendment, because “the preferable practice would be to permit the amendment and allow the parties to test its legal sufficiency by demurrer, motion for judgment on the pleadings or other appropriate proceedings.” *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048. While the trial court may deny a motion for leave to amend on grounds that, e.g., the party seeking the amendment has caused unreasonable delay in doing so, it probably abuses its discretion if it denies any such motion in the absence of a finding of prejudice to the opposing side. See *Thompson Pacific Construction, Inc. v. City of Sunnyvale* (2007) 155 Cal.App.4th 525, 545.

Analysis

The Court finds Plaintiff has sufficiently demonstrated the granting on the instant motion is warranted.

Plaintiff attaches his Third Amended Complaint to motion as required by Cal. Rules of Court, Rule 3.1324(a). Dwyer Decl., Ex. 1. The proposed Third Amended Complaint is red-lined to show where the allegations added/removed are located. *Id.* Plaintiff states the factual allegations in the Complaint which are proposed to be added. Dwyer Decl., ¶ 3. Plaintiff also states the claim and damages which have been amended. Dwyer Decl., ¶¶ 4-5. Plaintiff explains the purpose of the amendments is to add factual allegations, a claim under the Bane Act, and amend his damages claims to broaden his claim for emotional distress. Dwyer Decl., ¶¶ 3-5. Plaintiff’s counsel declares the proposed changes could not have been made earlier because they are largely based on discovery which occurred in December 2025. Dwyer Decl., ¶¶ 3-4. The need for amendment to the damages claim was identified because of discovery disputes between the

parties. Dwyer Decl., ¶ 5. Plaintiff's counsel associated provided Defendants' counsel with a copy of the proposed Third Amended Complaint on February 12, 2026, and filed the present motion on February 24, 2026. Anderson Decl., ¶ 6.

The requirements of California Rules of Court, Rule 3.1324(a)-(b) are satisfied. Requests to amend pleadings are to be liberally considered. No trial date has been set and the motion is unopposed. Accordingly, the court finds no prejudice to Defendant. Moreover, the delay in seeking to amend is not unreasonable given the date of discovery conducted leading to the amendments. Thus, Plaintiff's motion for leave to amend is granted. Plaintiff is to file its third amended complaint within ten (10) calendar days of April 27, 2026.

8. CU0001835 Christopher Holden vs. India Ledward

Appearance required. A notice of conditional settlement was filed on December 2, 2025 indicating a dismissal of this action would be filed by January 12, 2026. Such did not occur. On March 23, 2026, the Court continued the OSC for slightly more than one month based on an indication the conditions of settlement were close to being met with only a signed deed and a payment needing to be received. Now, Plaintiff has filed a CMC statement (despite the matter not being set for CMC) indicating the case is in the very same posture it was in on March 1, 2026. Based on this indication and the lengthy amount of time since the filing of the notice of settlement, the Court is inclined to dismiss this action on its own motion.

9. CU0002393 Bobbie Davida Lowe vs. Benjamin Matteo

No appearance required. On the Court's own motion and in light of the Declaration filed by counsel for Plaintiff, the Court continues the OSC re Dismissal to June 8, 2026 at 1:30 p.m. in Dept. A. Plaintiff shall file a proof of service, an application to serve by publication (if deemed appropriate), or a request for dismissal of defendant in advance of the continued order to show cause date. The Court notes a previous 60-day extension was granted on February 23, 2026. The Court will not be inclined to grant a further extension. The Court also notes, no attempts to serve were made between October of 2025 and late March of 2026, a period of approximately five (5) months.

10. CU0002429 Hunter, Carol Jean v. Rodriguez, Linda

Appearances required for the Order to Show Cause re Contempt – Arraignment.

11. CU0002513 TRUCKEE CROSSROADS S.C., LP, a Delaware limited partnership vs. SIERRA CREST CORPORATION, a Nevada corporation et al

No appearances required. In light of the proofs of service of the Summons and Complaint filed on February 13, 2026 combined with an Answer now being filed, the OSC re Dismissal is VACATED on the Court's own motion.

12. CU0002630 In Re Escobedo, Noe Osbaldo Luna

Appearance required to ensure no objections are made at the time of hearing requiring response from Petitioner. The Court is inclined to grant the name change request based on no objections

having been received to date and proof of publication having been filed. However, the Court notes, no proposed order has been lodged. Petitioner is to lodge a proposed Decree forthwith.